

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
)
 v.) C.R. No.05-10154-MLW
)
JOHN J. DIAMONT,)
Defendant.)

ORDER

WOLF, D.J.

January 22, 2007

For the reasons stated in court on January 22, 2007, it is hereby ORDERED that:

1. A pretrial evidentiary hearing on the Defendant's Motion In Limine to Exclude Disputed Invoices and Disputed Checks (Docket No. 70) will commence on March 8, 2007, at 9:30 a.m. and continue on March 9, 2007, if necessary. The hearing will be limited to whether certain documents, including but perhaps not limited to the "disputed invoices," are, to the extent offered for the truth of any matter stated, admissible as business records pursuant to Federal Rule of Evidence 803(6). The issue of whether the disputed documents are admissible as coconspirator hearsay pursuant to Federal Rule of Evidence 801(d)(2)(E) is reserved for trial. See United States v. Russell, 919 F.2d 793, 797 (1st Cir. 1990). The government shall cause Yale Strogoff, Jane Lemelin, and, if no stipulation is reported to the court by February 9, 2007, IRS Special Agent Timothy Saunders, to be present for the hearing.

2. Pursuant to Local Rule 7.1(b)(2), the government shall by February 2, 2007 respond to the Defendant's Renewed Motion for Exculpatory Evidence (Docket No. 110).

/s/ Mark L. Wolf
UNITED STATES DISTRICT JUDGE